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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/927,269	08/13/2001	David B. Flaxer	YOR920010030US1	5306

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EXAMINER

RHODE JR, ROBERT E

ART UNIT PAPER NUMBER

3625

DATE MAILED: 04/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.		Applicant(s)	
	09/927,269		FLAXER ET AL.	
	Examiner		Art Unit	
	Rob Rhode		3625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 January 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3 - 4 and 6 - 10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 3 - 4 and 6 - 10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

Applicant's amendment of 1-27-06 amended claims 3 and 4 and cancelled claims 1 – 2 and 5 as well as traversed rejections of Claims 3 – 4 and 6 - 10.

Currently, claims 3 – 4 and 6 - 10 are pending.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 3 and 4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In Claim 3 for example, the phrase "back end " is a relative phrase, which renders the claims indefinite. The phrase " back end " is not defined by the claim(s), the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably appraised of the scope of the invention. For examination purposes, the phrase "back end" will be treated as a capability to process orders and ensure delivery of placed orders by virtually entitled Groups such as Federal Government.

In turn, claims 3 and 4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In Claim 3 for example, the phrase "front end"

is a relative phrase, which renders the claims indefinite. The phrase " front end " is not defined by the claim(s), the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably appraised of the scope of the invention. For examination purposes, the phrase "front end" will be treated as a capability to present a web interface and online store for selecting and ordering for virtually entitled Groups such as the Federal Government.

Additionally, claims 3 and 4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In Claim 3 for example, the phrase "ancillary e-commerce services " is a relative phrase, which renders the claims indefinite. The phrase " ancillary e-commerce services " is not defined by the claim(s), the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably appraised of the scope of the invention. For examination purposes, the phrase "ancillary e-commerce services" will be treated as a capability of an online configurator for enabling ease of configuring as well identifying the user/customer as belonging to prescribed customer set/Group such as the Federal Government.

Also, claims 3 and 4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In Claim 3 for example, the phrase "virtual entitled groups " is a relative phrase, which renders the claims indefinite. The phrase " virtual entitled groups " is not defined by the claim(s), the specification does not provide

a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably appraised of the scope of the invention. For examination purposes, the phrase "virtual entitled groups" will be treated as a capability for the online method and system to identify and establish a tailored online store to support the selecting, ordering and delivering according to identification of the user/customer belonging to prescribed customer set/group such as the Federal Government and to process online orders.

Furthermore claims 3 and 4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In Claim 3 for example, the phrase "bundle definition process " is a relative phrase, which renders the claims indefinite. The phrase " bundle definition process " is not defined by the claim(s), the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably appraised of the scope of the invention. For examination purposes, the phrase "bundle definition process" will be treated as an online capability for associating bundled sets of products with characteristics such as discount pricing and customized customer/industry specific solutions such as for the Federal Government.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3 – 4 and 6 - 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Henson (US 6,167,383) in view of Official Notice.

Regarding claim 3 and 4, Henson teaches a method of supporting customizable a solution bundles for e-commerce applications comprising the steps of - providing a bundle definition process, where a solution bundle is created and loaded into the various components that support an e-commerce application, including the front-end and back-end application fulfillment systems (see at least Abstract and Figure 1); mapping customizable solution bundles into a virtual entitled group and processing the virtual entitled group, without distinction with other entitled groups, by back-end fulfillment systems and ancillary e-commerce services (see at least Col 2, lines 61 – 65, Col 3, lines 36 – 41 and Figure 8); providing a user interface as a component of the e-commerce front-end application, which presents a solution bundle configuration to the user and manages an order selection based on established bundle rules (see at least Figures 3A & B); providing an order process, whereby the e-commerce application passes the solution bundle order to the back-end application fulfillment systems for completion (see at least Figures 6 – 10); and recognizing a unique distinguished

identifier, for each marketable item in an order that allows the front-end, back-end fulfillment and ancillary service components to associate an item to a given bundle, thereby resolving characteristics, including an incentive price of the item (see at least Col 14, lines 35 – 43 and Col 15, lines 46 – 50), wherein a customizable solution bundle is mapped into a subset catalog of the master catalog containing a preselected marketable elements that represent a set of products that a marketing organization determines is suitable for a class of customer based on experience gained by the marketing teams for that industry (Abstract, Col 2, lines 61 – 67, Col 3, lines 1 - 44 and Figures 1, 3A and 8).

Please note that Henson discloses online stores for selecting and ordering industry/customer specific products, which includes a core database of products (i.e. catalog) with the options/subsets from this core database automatically selected and presented according to identifying the user belonging to prescribed customer set such as the Federal Government (i.e. subcatalog).

Henson does not specifically disclose and teach incentive price.

On the other hand, Henson does disclose pricing and discounts for various customers with the Premier Pages established for specific customer sets such as the Federal Government and Henson does disclose the capability to emulate a sales rep that has been called by the customer. In this regard, it was old and well known (see Bennett, Para 0128) that a sales rep would apply incentives such as price where appropriate.

Therefore, it would have been obvious to have provided the method of Henson with appropriate incentive price as determined by the sales and marketing staff. Indeed, the incorporation of off line sales/incentive techniques in the online ecommerce site will increase the probability that the customer will continue to use these methods and systems due to pricing and tailoring items for each of the entitled groups as taught by Henson.

Regarding claim 6, Henson teaches a method of supporting customizable a solution bundles for e-commerce applications, further comprising the step of recommending products and guiding the customer through a solution, whereby the customer is allowed to select marketable items from the subset catalog in which to customize their solution (Abstract, Col 2, lines 61 - 67 and Figures 3A – 10).

Regarding claim 7, Henson teaches a method of supporting customizable a solution bundles for e-commerce applications, wherein solution bundles are tailored to specific industries or classifications of customers, whereby many solution bundles may be defined by a given vendor (Abstract, Col 3, lines 1 – 11 and Figures 8).

Regarding claim 8, Henson teaches a method of supporting customizable a solution bundles for e-commerce applications, wherein the solution bundle is dedicated to a specific industry or class of customer (Figure 8).

Regarding claim 9, Henson teaches a method of supporting customizable a solution bundles for e-commerce applications, wherein a solution bundle which, when selected by the customer, results in a pricing discount (Col 14, lines 35 - 45).

Regarding claim 10, Henson teaches a method of supporting customizable a solution bundles for e-commerce applications, wherein a variety of differing pricing discounts are applied against individual marketable elements or on the entire solution bundle as a whole, depending on rules applied, the application of a pricing discount being dependent on a selection the customer chooses at the time they are customizing their solution (Col 10, lines 49 – 67 and Col 5, lines 1 – 11).

Response to Arguments

Applicant's arguments filed 1-27-06 have been fully considered but they are not persuasive.

Applicant argues that “front” and “back” end systems are well known to one of ordinary skill.

These terms “front” end as well as “back” end are vague and excessively broad, which makes the determination of the metes and bounds of the claims almost impossible. Moreover, the Applicant did not provide a specific definition of these terms in the specification. As an example, does “back” end include order handling, accounting as well as shipping or only ordering?

Applicant argues that the phrase “ancillary e-commerce services” is transparent to one of ordinary skill.

The phrase “ancillary e-commerce services” is vague and excessively broad, which makes the determination of the metes and bounds of the claims almost impossible. Moreover, the Applicant did not provide a specific definition of this phrase in the specification. As an example, does the phrase “ancillary e-commerce services” include order handling, accounting as well as shipping or only ordering or only connections to one or all systems?

Applicant argues that the phrase “virtual entitled groups” is transparent to one of ordinary skill.

The phrase “virtual entitled groups” is vague and excessively broad. For example in these claims, is “virtual entitled groups” the same as “entitled groups”? – since this method and system of the applicant are occurring “virtually”. As result of the vagueness of this phrase and for examination purposes, the interpretation was that the phrase “virtual entitled groups” was treated as groups of solutions tailored and applied/placed or removed as necessary for each customer/Premier pages (Col 15, lines 33 – 36).

Applicant argues Henson cannot implement “virtual entitled groups”.

As noted above, the interpretation was that the phrase “virtual entitled groups” was treated as groups of solutions tailored and applied/placed as required/necessary for

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each customer/Premier pages (Col 15, lines 33 – 36), which have been determined by the method and system of Henson to best satisfy that particular customer's requirement.

Applicant argues that the Examiners use of Official Notice is impermissible use of hindsight.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure and includes "Computer buyers are urged: Try it, you'll like it"; Susan Avery; Purchasing; Boston; Jun 15, 2000", which discloses online purchasing with customized catalogs.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Rob Rhode** whose telephone number is **571.272.6761**. The examiner can normally be reached Monday thru Friday 8:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Mark Fadok** can be reached on **571.272.6755**.

Any response to this action should be mailed to:

Commissioner for Patents

P.O. Box 1450

Alexandria, Va. 22313-1450

or faxed to:

571-273-8300


[Official communications; including
After Final communications labeled
"Box AF"]

For general questions the receptionist can be reached at
571.272.3600

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Jeffrey A. Smith
Primary Examiner